



Ordinance Number 540

AN ORDINANCE AMENDING CHAPTER 187 OF THE CODE OF THE TOWN OF ELSMERE CONCERNING SOLID WASTE

Sponsored By: 2nd District Councilman Steve Burg

First and Second Reading:
August 04, 2011

Results: Passed 7 In Favor, 0 Opposed

Third and Final Reading:
August 11, 2011

Results: Passed 6 In Favor, 0 Opposed with 1 Absent

Ordinance Number 540

AN ORDINANCE AMENDING CHAPTER 187 OF THE CODE OF THE TOWN OF ELSMERE CONCERNING SOLID WASTE

WHEREAS, Many portions of the existing Chapter 187 contain information which is out of date and no longer valid or applicable and;

WHEREAS, the current code does not address the collection of yard waste and recyclables.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF ELSMERE AS FOLLOWS:

That Chapter 187 of the Code of the Town of Elsmere is hereby deleted in its entirety and a new Chapter 187 be inserted to read as follows;

§ 187-1. Applicability.

- A. The Town shall ensure the collection of municipal solid waste, yard waste and recyclables to every residential property and to the owners of all multifamily dwellings throughout the Town of Elsmere. All properties throughout the Town that are assessed as a residential unit for tax purposes shall be subject to the terms and conditions of this chapter, regardless of whether or not they elect to use the services provide by the Town.
- B. Collection of solid waste, yard waste and recyclables for properties other than those defined in Subsection A of this section of this chapter shall only be by private commercial contractors that are licensed by the Town to operate within the limits of the Town of Elsmere.

§ 187-2. Rules and regulations.

- A. Containers:
 - 1. Municipal Solid Waste Containers:
 - (a) Every person occupying a residence and every owner of a multifamily dwelling shall provide such premises with a sufficient number of solid waste containers as to provide adequate capacity for the municipal solid waste which is placed out for collection, without overloading the capacity of such containers.
 - (b) Municipal Solid waste containers shall be fitted with a lid which makes the container watertight and shall be constructed of a solid and durable grade of metal or plastic material.

- (c) Plastic bags may be used as solid waste containers, provided that they are constructed of a material and in a manner sufficiently adequate in strength and weight to prevent the contents of the bag from rupturing the bag. All plastic bags shall be secured at the top to prevent spillage.
- (d) Containers that are manually emptied by the sanitation crews shall not exceed a combined weight of 50 pounds, including the container and its contents.
- (e) All containers (except approved plastic bags) shall be provided with suitable lifting handles which are in good working condition.
- (f) No container size shall exceed a capacity of 96 gallons unless waived in writing by the Town Manager.
- (g) Containers shall not contain any inside structures, such as bands or reinforcing angles, or anything else within the container which prevents the free discharge of the contents.
- (h) Containers that have deteriorated or that have become damaged to the extent that covers will not fit properly or that have ragged or sharp edges that are capable of causing injury will not be collected and shall be condemned by the Town, and if not replaced after notice to the owner or user, such container(s) shall be removed by the Town and destroyed.
- (i) Underground containers are prohibited for use within the limits of the Town.
- (j) Owners of multifamily units desiring to utilize containers for bulk storage may do so, provided that the container and the placement of the container shall be approved in advance by the Town Manager or his designee. In no case, however, shall the size of the container exceed twenty cubic yards in capacity.

2. Yard Waste Containers:

- (a) Every person occupying a residence and every owner of a multifamily dwelling shall provide such premises with a sufficient number of yard waste containers as to provide adequate capacity for the yard waste which is placed out for collection, without overloading the capacity of such containers.
- (b) Yard waste containers shall be fitted with a lid which makes the container watertight, shall be clearly marked as a yard waste container and shall be constructed of a solid and durable grade of metal or plastic material.

- (c) Plastic bags may be used as solid waste containers, provided that they are transparent in color so as to make the contents clearly visible, constructed of a material and in a manner sufficiently adequate in strength and weight to prevent the contents of the bag from rupturing the bag. All plastic bags shall be secured at the top to prevent spillage.
- (d) Commercially available paper bags which are designed for the disposal of yard waste and are biodegradable shall be permitted and shall be secured at the top to prevent spillage.
- (e) Containers that are manually emptied by the sanitation crews shall not exceed a combined weight of 50 pounds, including the container and its contents.
- (f) All containers (except approved plastic bags) shall be provided with suitable lifting handles which are in good working condition.
- (g) No container size shall exceed a capacity of 96 gallons unless waived in writing by the Town Manager or his designee.
- (h) Containers shall not contain any inside structures, such as bands or reinforcing angles, or anything else within the container which prevents the free discharge of the contents.
- (i) Containers that have deteriorated or that have become damaged to the extent that covers will not fit properly or that have ragged or sharp edges that are capable of causing injury will not be collected and shall be condemned by the Town, and if not replaced after notice to the owner or user, such container(s) shall be removed by the Town and destroyed.
- (j) Underground containers are prohibited for use within the limits of the Town.
- (k) Owners of multifamily units desiring to utilize containers for bulk storage may do so, provided that the container and the placement of the container shall be approved in advance by the Town Manager or his designee. In no case, however, shall the size of the container exceed twenty cubic yards in capacity.

3. Recyclable Containers:

- (a) Every single family residence and every owner of a multifamily dwelling with the exception of apartment complexes shall be provided with a single container for recyclables.
- (b) Recycling containers shall approved and provided by the Town. They shall be clearly identifiable as containers to be used for recycling only and shall be fitted with a lid which makes the container watertight and constructed of a solid and durable grade of metal or plastic material.

- (c) Containers that are manually emptied by the sanitation crews shall not exceed a combined weight of 50 pounds, including the container and its contents.
- (e) All containers shall be provided with suitable lifting handles which are in good working condition.
- (f) No container size shall exceed a capacity of 96 gallons unless waived in writing by the Town Manager or his designee.
- (g) Containers shall not contain any inside structures, such as bands or reinforcing angles, or anything else within the container which prevents the free discharge of the contents.
- (h) Containers that are no longer in the possession of the property to which they were issued, have deteriorated or that have become damaged to the extent that covers will not fit properly or that have ragged or sharp edges that are capable of causing injury will not be collected and shall be removed by the Town. The owner of the property to which the can was issued shall pay to the Town the costs of providing a new container.
- (i) Underground containers are prohibited for use within the limits of the Town.
- (j) Owners of multifamily units desiring to utilize containers for bulk storage may do so, provided that the container and the placement of the container shall be approved in advance by the Town Manager or his designee. In no case, however, shall the size of the container exceed twenty cubic yards in capacity.

B. Collection.

- (1) All collection of solid waste material from any residence or multifamily unit throughout the Town which is classified for tax purposes as a residential unit shall be arranged for by the Town Council and may include contractors.
- (2) It shall be unlawful for any person to place or cause to be placed any solid waste yard waste or recycling container within any public utility easement or public way, except on designated collection days at the curb line. All containers shall be placed just behind the curb line of the street abutting such property, but shall not be placed where it will interfere with vehicular or pedestrian traffic.
- (3) All containers that are collected through the rear alley ways of a residence shall be placed just outside of the rear fence of the property and shall not interfere with vehicular or pedestrian traffic. Containers shall not be placed in the front of the residence or any location other than the rear alley.

- (4) Any containers placed in such a position that it will need to be lifted over a fence or other obstacle to be collected, will not be collected.
- (5) Municipal solid waste, yard waste and recyclables which are due to be collected in accordance with the approved Municipal Solid Waste, Yard Waste and Recyclable collection schedule, shall be placed in the appropriate area for collection no earlier than sunset of the day preceding the day of the scheduled collection and no later than 6:00 a.m. on the day of the scheduled collection. All containers must be removed to a point at the side or the rear of the property by no later than 7:00 p.m. on the day of the collection.
- (6) All containers that are collected through the rear alley ways of a residence shall only be placed just outside of the rear fence of the property in accordance with Section B-(5) of this regulation and shall be removed to a point inside of the fence line by no later than 7:00 p.m. on the day of the collection.
- (7) No municipal solid waste, yard waste, recyclables or any other material shall be placed upon any street, alley or sidewalk in such a manner as to obstruct or interfere with the safe and efficient flow of any vehicular or pedestrian traffic.
- (8) No municipal solid waste, yard waste or recyclables of any description shall be disposed of within the limits of the Town of Elsmere in any manner other than that prescribed herein.
- (9) The deposit of any municipal solid waste, yard waste, recyclables upon any land, alley, street, public place, vacant lot, watercourse, ditch or any other method of disposal not in accordance with this chapter shall be a violation as prescribed in § 187-5 of this chapter.
- (10) The deposit of any municipal solid waste, yard waste, recyclables in any manner within in the limits of the Town of Elsmere by a person who is not a resident of the Town shall be a violation as prescribed in § 187-5 of this chapter.
- (11) Any resident who willfully permits a nonresident to deposit municipal solid waste, yard waste, recyclables within the Town shall be guilty of the same offense as described in Subsection B (10) of this section and shall be subject to the same penalties as the person who is bringing the solid waste into the Town.
- (12) Brush or tree trimmings placed for pickup shall be cut into lengths not to exceed four feet in length and 50 pounds in weight and shall be bundled. Loose items will not be collected.
- (13) Any person(s) who rummages through solid waste which has been placed out for collection by the Town, in search of usable or recyclable items, and who fails to replace all of the solid waste not removed from the location by them in an orderly and neat manner shall be guilty of a violation of this chapter and shall be subject to the penalties set forth in § 187-5 of this chapter.

C. Heavy pickups.

- (1) Residents may arrange through the Town's contractor for the pickup of normal household items such as chairs and small appliances which are not collected as part of the normal collection process. However, the contractor is authorized to charge an additional fee for this service which will be paid directly to the contractor by the person requesting the service.
- (a) Residents who place items which are scheduled for a heavy or special pickup by the contractor out for collection more than 24 hours prior to the collection date or without scheduling the heavy or special pickup shall have violated this chapter and shall be subject to a fine of \$250 per day for each day that the item(s) remain.

D. Town Wide Cleanup Day:

The Town Manager shall designate yearly a day which will be known as the "Town Wide Cleanup Day." This day shall be a Saturday during the month of March or April of each year, and public notice shall be made to alert all citizens of the designated date.

On this day residents shall be permitted to place out for collection all items that are normally not picked up by the Town's contractor or which are only picked up for an additional charge, except on this day, and this day only, there shall be no additional charge to the occupants for the collection of these items. However, items that are listed in Subsection "E" of this section will not be collected on this or any other day unless such a day is specifically designated to address all or some of these items.

E. Items that the Town will not collect.

- (1) The scope of the service rendered or provided for by the Town in the collection and removal of Municipal solid waste, yard waste and recyclable materials is intended to serve the needs of residential units and the activities directly related to such use. It is considered to be beyond the scope of such service to collect or remove solid waste materials generated by clearing, construction, demolition and any other such activities which produce excessive quantities of solid waste.
- (2) Rocks, scrap building materials or other trash resulting from construction, remodeling or destruction by fire, the elements, acts of God or other causes resulting from a general cleanup of a vacant or improved property or trees, brush and/or debris cleared from a property in preparation for construction or landscaping shall not be collected by the Town. Tires will not be collected by the Town.
- (3) Items which are by their nature a hazardous material such as gasoline, asbestos, oils, paints, chemicals etc., shall not be collected by the Town.
- (3) Anyone placing items defined as hazardous materials out for collection in such a manner as to conceal the item(s) from plain view shall be guilty of an offense and shall be subject to the penalties set forth in § 187-5 of this chapter in addition to being charged with a violation of Delaware law which may be appropriate.
- (4) The placing of leaves in the streets of the Town is prohibited.

§ 187-3. Commercial haulers of solid waste.

- A. All vehicles used in the collection of solid waste by commercial haulers within the Town of Elsmere shall have enclosed bodies or shall have bodies covered with a tarpaulin or canvas cover. The name of the owner of the vehicle shall be displayed in a prominent place on the vehicle and shall be legible.
- B. Each commercial hauler who does business within the Town shall apply for and obtain a business license from the Town prior to providing such service.
- C. The owner of any commercial vehicle who collects solid waste within the Town of Elsmere shall be financially responsible to the Town for any and all cost associated with the cleanup of any spill that may occur within the Town or any damage caused by any of their vehicles while collecting solid waste within the Town.
- D. Any commercial hauler who violates any of the provisions of this chapter may have his or her business license suspended for a period of 30 days for a first offense, and the business license may be revoked if a second or subsequent offense should occur within one year of the first offense.

§ 187-4. Authority to establish supplemental rules and regulations.

The Town Manager is hereby authorized to make additional rules and regulations for the efficient collection and disposal of all municipal solid waste, yard waste, recyclables provided that no such supplemental rule or regulation shall be in conflict with the specific provisions of this chapter and is in no way inconsistent with the established policies of the Mayor and Council.

§ 187-5. Violations and penalties; responsibility for compliance; suspension of pickup service; hearing.

- A. Any person or any officer of any firm, corporation or business violating any of the provisions of this chapter shall, upon conviction thereof by a court having judicial authority to adjudicate the case, be fined not less than \$100 and not more than \$500, along with the costs of prosecution and any other legally appropriate fees, or imprisoned for a period of not more than 90 days, or both.

- B. When the owner of a property found to be in violation of this chapter is not the occupant of the property and the person who occupies the property fails to comply with a notice of violation, it shall be the owner of the property who is held responsible for the violation and any penalties associated with the violation.
- C. Any person found guilty or pleading guilty to a violation of § 187-2B(6), (7), (8), (9) or (10) of this chapter shall, in addition to any other penalties described in § 187-5A, pay a minimum fine of not less than \$100 and in addition to the fine shall pay any reasonable cost incurred by the Town associated with action taken to bring the property into compliance with this chapter.
- D. Every violation of this chapter shall be deemed a separate offense for each and every day that the violation continues after being notified by the Town of the violation and shall be subject to the penalty imposed by this section for each and every such separate offense.
- E. Any owner or resident being convicted of or pleading guilty to three or more violations of this chapter within a two-year period may have their collection service suspended for a period of time not less than 30 days and not more than 120 days by the Town Manager.

§ 187-6. Reward for information leading to conviction.

The Town Manager is authorized to pay to any person(s) who provided the Town with information which leads to the conviction of the person responsible for the violation a reward in an amount to be determined by the Town Manager so long as the amount does not exceed 1/2 of the amount of any fine imposed.

August 04, 2011
First and Second Reading

August 11, 2011
Third and Final Reading

Deborah A. Norkavage, Mayor

Joann I. Personti, Secretary

Approved as to form:

Town Solicitor

SYNOPSIS
ORDINANCE 540

This Ordinance amends Chapter 187 of the Code of the Town of Elsmere by updating the ordinance to address the placement and collection of Municipal Solid Waste, Yard Waste and Recyclable materials.

Fiscal Impact:

None